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EXAMINER

PATEL, MUNJALKUMAR C

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/576,391	Applicant(s) BELL ET AL.	
	Examiner Munjal Patel	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claims 1-4, 6-11, 15-19, 21, and 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Akins III et al. (US PG PUB # US 2003/0169879 A1)** herein after referred as **Akins**.

4. **Regarding claim 1, Akins** discloses a method for accessing content according to a location within a geographical area of a plurality of geographical areas, wherein the content is provided within the plurality of geographical areas (**Akins: Abstract & Fig 1,2& 3**), the method being independent of determining the location and comprising:
defining a first geographical area (**Akins: Fig 5 & paragraph 0056 describes defining a first geographical area specifically lines [4-9]**);
determining first data for identifying the first geographical area (**Akins: Fig 1 &**

paragraph 0056, 0311 describes determining first data in relation to the first geographical area, hence identifying the geographical area);

determining second data for identifying at least one location within the first geographical area in dependence on the first data **(Akins: Fig 1:107, paragraph 0056 lines [10-15], paragraph 0311-0316 discloses ECM identifying location of user to enable or disable the content);**

sending the second data via a first network only to locations within the first geographical area **(Akins: Fig 3:323 & paragraph 0017 lines [6-10] discloses it can be sent with the instance data or the separate channel, it will be users choice to send it only through first network or a separate channel);**

providing the first data to a receiver **(Akins: Fig 3:315 EMM);**

and, for a receiver at a location within the first geographical area :

accessing the first data **(Akins: Fig 3:315);**

receiving the second data from the first network **(Akins: Fig 3:323 & paragraph 0017 lines [6-10] discloses it can be sent with the instance data hence received by**

receiver from the first network as well); comparing the second data with the first

data **(Akins: Fig 3:343);** and accessing content in dependence on the results of the

comparison **(Akins: Fig 3:347).** Although, **Akins** briefly discloses the transmission

medium for EMM to be sent by first network, nonetheless, **the examiner** maintains that

it was well known in the art to provide EMM through different transmission mediums as

also taught by **Akins (Akins: ¶ 0073 lines [23-31] disclose that the transmission**

medium for the EMM can be, for example, a CD-ROM, a DVD, a floppy disk or the

Internet).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Akins** by specifically providing use of transmission medium other than first network as taught by **Akins**, for the purpose of providing more secure access.

5. **Regarding claim 2, Akins** discloses the method as claimed in Claim 1, wherein said method further comprises the step of, storing the first data following the step of accessing the first data (**Akins: Paragraph 0057 lines [14-16] discloses first data is being received by the set top box and then stored**). This claim is rejected for the same motivation as claim 1.

6. **Regarding claim 3, Akins** discloses the method as claimed in claim 1, wherein sending second data comprises broadcasting said second data (**Akins: Fig 3:329, 319 & Paragraph 0055 lines [13-15] , 0056 lines [1-2] discloses encrypted instance (including ECM) is broadcasted**). This claim is rejected for the same motivation as claim 1.

7. **Regarding claim 4, Akins** discloses the method as claimed in claim 1, wherein the first data comprises information associated with the definition of the first geographical area (**Akins: Paragraph 0056 lines [5-16] EMM 111**), and the second data comprises information associated with at least one location within the first

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geographical area (**Akins: Paragraph 0085 lines [6-8] ECM 323 which has service identification which intern is associated with one location within first geographical**). This claim is rejected for the same motivation as claim 1.

8. **Regarding claim 6, Akins** discloses the method as claimed in claim 1, wherein there is a correspondence between the first data and the second data (**Akins: Paragraph 0085 lines [6-8] describes ECM being authenticated by MSK 309 which is part of EMM**). This claim is rejected for the same motivation as claim 1.

9. **Regarding claim 7, Akins** discloses the method as claimed in claim 1, wherein the second data is encrypted prior to being sent (**Akins: paragraph 0083 lines [11-12]**), and decrypted after being received (**Akins: paragraph 0084 lines [1-3]**). This claim is rejected for the same motivation as claim 1.

10. **Regarding claim 8, Akins** discloses a system for accessing content at a location within a geographical area of a plurality of geographical areas, the system comprising: a server operable to (**Akins: System used in Fig 1,3 & 5**): define a first geographical area (**Akins: Fig 5 & paragraph 0056 describes defining a first geographical area specifically lines [4-9]**); determine first data for identifying the first geographical area (**Akins: Fig 1 & paragraph 0056, 0311 describes determining first data in relation to the first geographical area, hence identifying the geographical area**); and

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determine second data for identifying at least one location within the first geographical area in dependence on first data (**Akins: Fig 1:107, paragraph 0056 lines [10-15], paragraph 0311-0316 discloses ECM that identifies location of user to enable or disable the content**);

a first network operable to send second data only to locations within the first geographical area (**Akins: Fig 3:323 network used**); and

means to provide first data to a receiver (**Akins: Fig 3: 331 transmission medium**);

a receiver operable to:

access first data (**Akins: Fig 3:315**);

receive second data from the first network (**Akins: Fig 3:323 & paragraph 0017 lines [6-10] discloses it can be sent with the instance data hence received by receiver from the first network as well**);

compare second data with first data (**Akins: Fig 3:343**); and

access content in dependence on the results of the comparison (**Akins: Fig 3:347**).

Although, **Akins** briefly discloses the transmission medium for EMM to be sent by first network, nonetheless, **the examiner** maintains that it was well known in the art to provide EMM through different transmission mediums as also taught by **Akins** (**Akins: ¶ 0073 lines [23-31] disclose that the transmission medium for the EMM can be, for example, a CD-ROM, a DVD, a floppy disk or the Internet**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Akins** by specifically providing use of transmission medium other than first network as taught by **Akins**, for the purpose of

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providing more secure access.

11. **Regarding claim 9, Akins** discloses the system as claimed in Claim 8, wherein the first network comprises one or more data transmission nodes (**Akins: paragraph 0053 lines [11-18] describes node structure**), each node being operable to cover a respective geographical area. **It is well known in the art that in a node structure each node serves respective geographical area.**

12. **Regarding claim 10, Akins** discloses the system as claimed in Claim 8, wherein the first network is a network used for terrestrial broadcast television services (**Akins: paragraph 0014 lines [4-5]**). This claim is rejected for the same motivation as claim 8.

13. **Regarding claim 11, Akins** discloses the system as claimed in Claim 8, wherein the first network is a network used for terrestrial broadcast radio services (**Akins: paragraph 0014 lines [4-5]**). This claim is rejected for the same motivation as claim 8.

14. **Regarding claim 15, Akins** discloses the system as claimed in Claim 8, wherein the means to provide the first data to a receiver comprises a second network operable to send the first data to the receiver (**Akins: paragraph 0017 lines [6-7] disclose authorization data and instance data are sent on same channel**). This claim is rejected for the same motivation as claim 8.

15. **Regarding claim 16, Akins** discloses the system as claimed in Claim 15, wherein the second network is further operable to send content to the receiver **(Akins: paragraph 0017 lines [6-7] discloses authorization data and instance data are sent on same channel)**. This claim is rejected for the same motivation as claim 15.

16. **Regarding claim 17, Akins** discloses a receiver for use in the system as claimed in any one of Claims 16, the receiver comprising: an interface operable to access first data **(Akins: Fig 3:315 discloses EMM being received, hence an interface operable to access EMM);**

a first tuner operable to receive second data from the first network **(Akins: Fig 3:323 & paragraph 0017 lines [6-10] discloses it can be sent with the instance data hence received by receiver from the first network as well);** and

processor operable to:

compare second data with first data **(Akins: Fig 3 & paragraph 0084 discloses comparison between EMM and ECM, hence presence of processor for performing the comparison);** and

access content in dependence on the results of the comparison **(Akins: paragraph 0084 lines [10-15] discloses if comparison is successful, content is decrypted by service decryptor 347)**. This claim is rejected for the same motivation as claim 16.

17. **Regarding claim 18, Akins** discloses the receiver as claimed in Claim 17, wherein said receiver further comprises a store and wherein the processor is further

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operable to store accessed first data (**Akins: Paragraph 0057 lines [14-16]**). This claim is rejected for the same motivation as claim 17.

18. **Regarding claim 19, Akins** discloses the receiver as claimed in Claim 17, wherein said receiver further comprising comprises a second tuner operable to receive content (**Akins: Fig 3:323, hence second tuner**). This claim is rejected for the same motivation as claim 17.

19. **Regarding claim 21, Akins** discloses the receiver as claimed in Claim 17, wherein the interface is operable to communicate with a modem (**Akins: Paragraph 0139 lines [1-5] discloses service encryption and ECM component of QAM modulator, hence presence of modem along with the interface communicating with each other**). This claim is rejected for the same motivation as claim 17.

20. **Regarding claim 22, Akins** discloses the receiver as claimed in Claim 19, wherein the processor is further operable to access first data via the second tuner (**Akins: Fig 3:323 & paragraph 0017 lines [6-10] discloses it can be sent with the instance data or the separate channel, it will be users choice to send it only through first network or a separate channel**). This claim is rejected for the same motivation as claim 19.

21. **Claim 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over Akins in

view of **Sibecas et al.(US Patent # US 5,940,756)** herein after referred as **Sibecas**.

22. **Regarding claim 5, Akins** discloses the method as claimed in Claim 4, wherein the first data comprises at least one GSM Cell_ID, and the second data comprises a GSM Cell_ID matching a GSM Cell_ID of the first data. **however Akins** fails to disclose first data comprises at least one GSM Cell ID and the second data comprises a GSM Cell ID matching a GSM Cell ID of the first data, **however** examiner maintains that it was well known in the art to provide GSM cell ID, as taught by **Sibecas (Fig: 16:1614-1622 & column 15 lines [35-43])**.

23. **In** a similar field of endeavor **Sibecas** discloses method of transmitting paging communication on cellular communication system. In addition **Sibecas** discloses first data comprises at least one GSM Cell ID and the second data comprises a GSM Cell ID matching a GSM Cell ID of the first data.

24. **Therefore**, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Akins** by specifically providing first data comprises at least one GSM Cell ID and the second data comprises a GSM Cell ID matching a GSM Cell ID of the first data as taught by **Sibecas**, for the purpose of making it a unique authorization key.

25. **Claims 12 and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Akins** in view of **Valentine et al.(Us Patent # US 6,223,045 B1)** herein after referred as **Valentine**.

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26. **Regarding claim 12, Akins** discloses the system as claimed in Claim 8, wherein the first network is a network used for terrestrial mobile telephony services. **However, Akins** fails to disclose first network is that used for terrestrial mobile telephony services. **However** the examiner maintains that it was well known in the art to provide terrestrial mobile telephony network (**Valentine: Abstract**) as first network as taught by Valentine.

27. **In** a similar field of endeavor **Valentine** discloses Satellite delivery of short message service (SMS) messages. In addition, **Valentine** discloses terrestrial mobile telephony as first network.

28. **Therefore**, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify **Akins** by specifically providing terrestrial mobile telephony as first network as taught by **Valentine**, for the purpose of increasing reliable delivery (**Valentine: column 2 lines [20-24]**) of SMS messages.

29. **Regarding claim 13, Akins** in view of **Valentine** discloses the system as claimed in Claim 12, wherein the terrestrial mobile telephony data service is Cell Broadcast (**Valentine: Abstract discloses SMS messaging using satellite which is a Cell broadcast**). This claim is rejected for the same motivation as claim 12.

30. **Claims 14 and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Akins** in view of **Kahn et al.(US Patent # US 7,369,660 B1)** herein after referred as **Kahn**.

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31. **Regarding claim 14, Akins** discloses the system as claimed in Claim 8, wherein the means to provide first data to a receiver comprises a Smart Card (212) containing the first data **(Akins: paragraph 0073 lines [23-31] describes EMM can be send out of band i.e. on storage medium such as CD-ROM, DVD, Floppy or any other medium that can be transferred physically, electronically or otherwise]. However Akins** fails to disclose specifically using Smart Card as a storage medium. **However** examiner maintains that it was well known in the art to provide Smart card as a storage medium **(Kahn: Column 1 lines [36-39])**

32. **In** a similar field of endeavor **Kahn** discloses method and apparatus for distributing digital content. In addition **Kahn** discloses Smart Card being used as storage medium.

33. **Therefore**, it would have been obvious to one ordinary skill in the art at the time of invention was made to modify **Akins** by specifically providing "Smart Card" as a storage medium as taught by **Kahn** for the purpose of providing unique authorization key which will enable user to decode authorized content.

34. **Regarding claim 20, Akins** discloses the receiver as claimed in Claim 17, wherein the interface is operable to read a Smart Card. **(Akins: paragraph 0073 lines [23-31] describes EMM can be send out of band i.e. on storage medium such as CD-ROM, DVD, Floppy or any other medium that can be transferred physically, electronically or otherwise]. However, Akins** fails to disclose specifically using Smart Card as a storage medium. **However** the examiner maintains that it was well known in

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the art to provide Smart card as a storage medium (**Kahn: Column 1 lines [36-39], hence interface to read Smart Card**).

35. In a similar field of endeavor **Kahn** discloses method and apparatus for distributing digital content. In addition **Kahn** discloses Smart Card being used as storage medium.

36. **Therefore**, it would have been obvious to one ordinary skill in the art at the time of invention was made to modify **Akins** by specifically providing "Smart Card" as a storage medium as taught by **Kahn** for the purpose of providing unique authorization key which will enable user to decode authorized content.

Response to Arguments

Applicant's arguments filed 06/24/2009 have been fully considered but they are not persuasive.

a. Applicant's argument on page 8 ¶ 0003 – page 9 ¶ 0003 and page 11 ¶ 0004 regarding claim 1 on about the prior art does not provide any method for the terminal to determine its own location" as its service provider informs the terminal about its location & applicant's invention where "the receiver is arranged to receive the second data and autonomously determine its location based on receiving said second data with first data" are different, however, the examiner respectfully disagrees as in both cases the receiver receives the second data and first data from the network (or service provider) and location is autonomously determined as cited in the rejection above.

b. In response to applicant's argument that the references fail to show certain

features of applicant's invention, it is noted that the features upon which applicant relies (i.e., page 9 ¶ 0004 – page 10 ¶ 0001 regarding the receiver is arranged to receive the second data and autonomously determine its location based on receiving said second data from the first network and matching the received second data with first data previously provided to the receiver) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

c. Applicant's argument on page 10 ¶ 0002 – page 10 ¶ 0004 regarding claim 1 “determining second data for identifying at least one location within the first geographical area in dependence of first data” is not disclosed by Akins, however, the examiner respectfully disagree as cited Fig 1:107 & ¶ 0056 lines [10-15] disclose use of ECM in control word information which contains information regarding location as further disclosed ¶ 0311-0316 discloses ECM that identifies location of user to enable or disable the content as cited.

d. Applicant's argument on page 10 ¶ 0005 – page 11 ¶ 0003 & page 11 ¶ 0004 - page 13 ¶ 0001 regarding “sending second data via a first network, only to location within the first geographical area, however, the examiner respectfully disagrees as cited Fig 3:323 shows sending ECM via first network, here it is inherent that ECM is sent via first network, only to location within the first geographical area due to the fact that ECM and EMM (both combined) are used to authorize conditional access (restricted local area) to the content in a

geographical area. Hence examiner's interpretation of ECM is sent only to locations within the first geographical area. As cited ECM and EMM can be sent via 2 different networks independent of each other.

e. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

f. Applicant's argument on page 13 ¶ 0002-page 14 ¶ 0001 about the prior art failing to disclose "determining second data for identifying at least one location within the first geographical area in dependence on the first data & sending the second data via a first network only to location within the first geographical area", however, the examiner respectfully disagrees as cited in rejected claims 1 & 8 above, Prior art clearly teaches ECM identifies a specific set top box in the total geographic area in dependence on EMM and sending ECM with the first instance as well as cited in claim 1 & 8 above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Munjal Patel whose telephone number is (571)270-5541. The examiner can normally be reached on Monday - Friday 9:00 AM - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rafael Perez-Gutierrez can be reached on 571-272-7915. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Munjal Patel
Examiner
Art Unit 2617

/M. P./
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